

Introduced by Senator Calderon

February 18, 2011

An act to amend Sections 13400, 13401, 13402, 13403, 13404, 13405, 13406, and 13407 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 617, as introduced, Calderon. State government: financial accountability.

The Financial Integrity and State Manager's Accountability Act of 1983 provides that state agency heads are responsible for the establishment and maintenance of a system or systems of internal accounting and administrative control within their agencies, as specified.

This bill would rename that act the State Government Fraud Prevention, Detection, and Financial Integrity Monitoring and Accountability Act of 2011, and require that effective, independent, and ongoing monitoring of the internal accounting and administrative controls of state agencies be included within that system or systems.

Existing law requires state agencies to prepare and submit a report to the Legislature and other state officials on the adequacy of the agency's systems of internal accounting and administrative control by December 31 of each odd-numbered fiscal year and to identify any material inadequacy or material weakness in these systems and implement a plan and schedule for corrections.

This bill would sunset that reporting requirement by January 1, 2014, unless a later enacted statute extends that date.

Existing law requires that the Director of Finance establish a general framework to guide state agencies in conducting internal reviews of their systems of internal accounting and administrative controls.

This bill would require that the Director of Finance also establish a general framework of recommended practices to guide state agencies in conducting active ongoing monitoring of processes for internal accounting and administrative control.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13400 of the Government Code is
2 amended to read:
3 13400. This act shall be known and may be cited as the *State*
4 *Government Fraud Prevention, Detection, and Financial Integrity*
5 *Monitoring and State Manager's Accountability Act of 1983 2011.*
6 SEC. 2. Section 13401 of the Government Code is amended
7 to read:
8 13401. (a) The Legislature hereby finds ~~that~~ *the following*:
9 (1) *Active oversight processes, including regular and ongoing*
10 *monitoring processes, for the prevention and early detection of*
11 *fraud and errors in program administration are vital to the*
12 *appropriate and efficient use of public resources.*
13 ~~(1)~~
14 (2) Fraud and errors in state programs are more likely to occur
15 from a lack of effective systems of internal accounting and
16 administrative control in the state agencies *when active monitoring*
17 *measures are not maintained to ensure that accounting and*
18 *administrative controls are functioning properly.*
19 ~~(2)~~
20 (3) Effective systems of internal accounting and administrative
21 control provide the basic foundation upon which a structure of
22 public accountability must be built.
23 ~~(3)~~
24 (4) Effective systems of internal accounting and administrative
25 control are necessary to assure that state assets and funds are
26 adequately safeguarded, as well as to produce reliable financial
27 information for the agency.
28 ~~(4)~~
29 (5) Systems of internal accounting and administrative control
30 are necessarily dynamic and must be *routinely monitored,*
31 continuously evaluated, and, where necessary, improved.

1 ~~(5)~~

2 (6) Reports regarding the *continuing* adequacy of the systems
3 of internal accounting and administrative control of each state
4 agency are necessary to enable the executive branch, the
5 Legislature, and the public to evaluate the agency's performance
6 of its public responsibilities and accountability.

7 (b) The Legislature declares it to be the policy of the State of
8 California that:

9 (1) Each state agency must maintain effective systems of internal
10 accounting and administrative control as an integral part of its
11 management practices.

12 (2) The systems of internal accounting and administrative control
13 of each state agency shall be evaluated on an ongoing basis *through*
14 *regular and ongoing monitoring processes* and, when detected,
15 weaknesses must be promptly corrected.

16 (3) All levels of management of the state agencies must be
17 involved in assessing and strengthening the systems of internal
18 accounting and administrative control to minimize fraud, errors,
19 abuse, and waste of government funds, *however, key monitoring*
20 *processes should be structured to ensure the independence and*
21 *objectivity of persons tasked with such monitoring.*

22 SEC. 3. Section 13402 of the Government Code is amended
23 to read:

24 13402. State agency heads are responsible for the establishment
25 and maintenance of a system or systems of internal accounting,
26 ~~and~~ administrative control, *and effective, independent, and*
27 *objective ongoing monitoring of the internal accounting and*
28 *administrative controls* within their agencies. This responsibility
29 includes documenting the system, communicating system
30 requirements to employees, and assuring that the system is
31 functioning as prescribed and is modified, as appropriate, for
32 changes in conditions.

33 SEC. 4. Section 13403 of the Government Code is amended
34 to read:

35 13403. (a) Internal accounting and administrative controls, *if*
36 *maintained and reinforced through effective monitoring systems*
37 *and processes*, are the methods through which reasonable
38 assurances can be given that measures adopted by state agency
39 heads to safeguard assets, check the accuracy and reliability of
40 accounting data, promote operational efficiency, and encourage

1 adherence to prescribed managerial policies are being followed.
2 The elements of a satisfactory system of internal accounting and
3 administrative control, shall include, but are not limited to, the
4 following:

5 (1) A plan of organization that provides segregation of duties
6 appropriate for proper safeguarding of state agency assets.

7 (2) A plan that limits access to state agency assets to authorized
8 personnel who require these assets in the performance of their
9 assigned duties.

10 (3) A system of authorization and recordkeeping procedures
11 adequate to provide effective accounting control over assets,
12 liabilities, revenues, and expenditures.

13 (4) An established system of practices to be followed in
14 performance of duties and functions in each of the state agencies.

15 (5) Personnel of a quality commensurate with their
16 responsibilities.

17 (6) An effective system of internal review.

18 (b) State agency heads shall follow these standards of internal
19 accounting and administrative control in carrying out the
20 requirements of Section 13402.

21 *(c) Monitoring systems and processes are vital to the following:*

22 *(1) Ensuring that routine application of internal controls do*
23 *not diminish their efficacy over time.*

24 *(2) Providing timely notice and opportunity for correction of*
25 *emerging weaknesses with established internal controls.*

26 *(3) Facilitating public resources and other decisions by ensuring*
27 *availability of accurate and reliable information.*

28 *(4) Facilitating production of timely and accurate financial*
29 *reports.*

30 *(d) State agency heads shall implement systems and processes*
31 *to ensure the independence and objectivity of the monitoring of*
32 *internal accounting and administrative control as an ongoing*
33 *activity in carrying out the requirements of Section 13402.*

34 SEC. 5. Section 13404 of the Government Code is amended
35 to read:

36 13404. As used in this chapter:

37 (a) "Governor" means the Governor of California.

38 (b) "Controller" means the Controller of California.

39 (c) "Director" means the Director of Finance.

1 (d) “Attorney General” means the Attorney General of
2 California.

3 (e) “Treasurer” means the Treasurer of California.

4 SEC. 6. Section 13405 of the Government Code is amended
5 to read:

6 13405. (a) To ensure that the requirements of this chapter are
7 fully complied with, the head of each state agency that the director
8 determines is covered by this section shall, on a biennial basis but
9 no later than December 31 of each odd-numbered year, conduct
10 an internal review and prepare a report on the adequacy of the
11 agency’s systems of internal accounting, ~~and~~ administrative control,
12 *and monitoring practices* in accordance with the guide prepared
13 by the director pursuant to subdivision (d).

14 (b) The report, including the state agency’s response to review
15 recommendations, shall be signed by the head of the agency and
16 addressed to the agency secretary, or the director for agencies
17 without a secretary. Copies of the reports shall be submitted to the
18 Legislature, the State Auditor, *the Controller, the Treasurer, the*
19 *Attorney General*, the Governor, the director, and to the State
20 Library where they shall be available for public inspection.

21 (c) The report shall identify any material inadequacy or material
22 weakness in an agency’s systems of internal accounting and
23 administrative control that prevents the head of the agency from
24 stating that the agency’s systems comply with this chapter. No
25 later than 30 days after the report is submitted, the agency shall
26 provide to the director a plan and schedule for correcting the
27 identified inadequacies and weaknesses, which shall be updated
28 every six months until all corrections are completed.

29 (d) The director, in consultation with the State Auditor and the
30 Controller, shall establish, and may modify from time to time as
31 necessary, a system of reporting and a general framework to guide
32 state agencies in conducting internal reviews of their systems of
33 internal accounting and administrative control.

34 (e) *The director, in consultation with the State Auditor and the*
35 *Controller, shall establish, and may modify from time to time as*
36 *necessary, a general framework of recommended practices to*
37 *guide state agencies in conducting active, ongoing monitoring of*
38 *processes for internal accounting and administrative control.*

1 (f) (1) *The requirement for submitting a report imposed under*
2 *subdivision (b) is inoperative on January 1, 2014, unless a later*
3 *enacted statute extends that date.*

4 (2) *A report to be submitted pursuant to subdivision (b) shall*
5 *be submitted in compliance with Section 9795.*

6 SEC. 7. Section 13406 of the Government Code is amended
7 to read:

8 13406. (a) The head of the internal audit staff of a state agency
9 or a division, as specified by the director, or, in the event there is
10 no internal audit function, a professional accountant, if available
11 on the staff, designated as the internal control person by the head
12 of the state agency or a division, shall receive and investigate any
13 allegation that an employee of the agency provided false or
14 misleading information in connection with the review of the
15 agency's systems of internal accounting and administrative control
16 or in connection with the preparation of the biennial report on the
17 systems of internal accounting, ~~and~~ administrative control, *and*
18 *monitoring practices.*

19 (b) If, in connection with any investigation under subdivision
20 (a), the head of the internal audit staff or the designated internal
21 control person determines that there is reasonable cause to believe
22 that false or misleading information was provided, he or she shall
23 report in writing that determination to the head of the agency or
24 the division.

25 (c) The head of the agency or division shall review any matter
26 referred to him or her under subdivision (b), shall take such
27 disciplinary or corrective action as he or she deems necessary, and
28 shall forward a copy of the report, indicating therein the action
29 taken, to the director within 90 days of the date of the report.

30 SEC. 8. Section 13407 of the Government Code is amended
31 to read:

32 13407. Because sound internal *accounting and administrative*
33 controls and the *regular and ongoing* monitoring of those internal
34 controls significantly inhibits waste of resources and thereby
35 creates savings, the director and agencies and divisions shall carry
36 out the provisions of this chapter by using existing resources.